

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO

PARIS PENA LEE,

Plaintiff,

v.

Civ. No. 22-960 WJ/GBW

CITY OF LAS CRUCES, *et al.*,

Defendants.

**ORDER GRANTING MOTION TO COMPEL**

THIS MATTER comes before the Court on City Defendants' Motion to Compel Plaintiff Paris Pena Lee to Provide Complete Answers and Responses to City Defendants' First Set of Discovery (the "Motion"). *Doc.* 27. Defendants filed the Motion on June 27, 2023, requesting the Court to compel Plaintiff to provide complete responses to Defendants' First Set of Interrogatories and Defendants' First Set of Requests for Production. *Id.* at 1-2. Plaintiff's response to the Motion was due on July 11, 2023, but, to date, Plaintiff has not filed a response or moved for an extension of her response deadline.

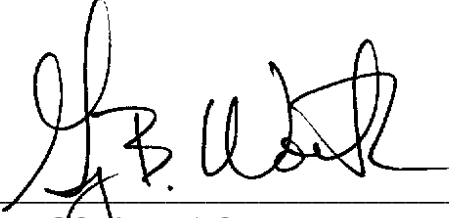
Under the Local Rules, "[t]he failure of a party to file and serve a response in opposition to a motion within the time prescribed for doing so constitutes consent to grant the motion." D.N.M.LR-Civ. 7.1(b). Because Plaintiff failed to file a response

within the allotted time under the Rules, the Court deems Defendants' Motion to Compel unopposed and will GRANT it.

The Court will not, however, grant Defendants the attorney fees and expenses they incurred in filing the Motion. Federal Rule of Civil Procedure 37(a)(5)(A) requires that the Court order the payment of attorney fees if it grants a motion to compel *unless*: 1) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court action; 2) the opposing party's nondisclosure, response, or objection was substantially justified; or 3) other circumstances make an award of expenses unjust. In the Motion, Defendants acknowledge that they did not confer in good faith with Plaintiff about the specific discovery disputes at issue in the Motion prior to filing it. *Doc. 27* at 2. As a result, the Court finds that Defendants failed to make a good faith attempt to obtain the disputed discovery without court action and attorney fees are not warranted. *See* Fed. R. Civ. P. 37(a)(5)(A)(i).

IT IS THEREFORE ORDERED that City Defendants' Motion to Compel Plaintiff Paris Pena Lee to Provide Complete Answers and Responses to City Defendants' First Set of Discovery (*doc. 27*) is GRANTED. Plaintiff shall provide complete answers to Defendants' First Set of Interrogatories and Defendants' First Set of Requests for Production **within twenty-one (21) days of the entry of this Order.**

IT IS SO ORDERED.



---

GREGORY B. WORMUTH  
CHIEF UNITED STATES MAGISTRATE JUDGE